



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

APR 10 2003

Mr. Jeffrey Aaron
Town Paint & Supply Co.
P.O. Box 101035
Lyman Street
Northboro, MA 01532

Ref. No. 03-0031

Dear Mr. Aaron:

This responds to your January 28, 2003 letter requesting clarification on shipping a lacquer thinner product as a Consumer commodity, ORM-D, between Canada and the United States under § 171.12a of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether you must repackage the "Consumer commodity, ORM-D" material received from Canada as "Paint related material, UN 1263, PG II" before re-shipping the material to your customers in the United States.

According to your letter, you ship and receive a lacquer thinner product packaged in one gallon metal cans which are packed four to a case, as "Paint related material, UN 1263, 3, PG II" from your supplier in Canada. You further state that the product is now arriving at your facility from Canada packaged as a "Consumer commodity, ORM-D". You ask whether you must repackage this material as "Paint related material, UN 1263, PG II" when re-shipping to your customers in the United States or whether you may continue to ship it as "Consumer commodity ORM-D".

Section 171.12a authorizes a hazardous material that is classed, marked, labeled, placarded, described on a shipping paper, and packaged in accordance with the Transportation of Dangerous Goods (TDG) Regulations issued by the Government of Canada to be offered for transportation and transported to or through the United States by motor vehicle or rail car. Therefore, it is acceptable for you to receive the materials shipped from Canada as Consumer Commodities. However, it would not be acceptable at this time to re-offer the materials as consumer commodities within the United States because currently, the limited quantity exceptions in § 173.150(b)(2) of the HMR authorize a maximum of not over 1.0 L (0.3 gallons) net capacity for each inner packaging of Packing Group II flammable liquids. In order for this product to be reclassified and shipped as a Consumer commodity, ORM-D material, the quantity limits and Consumer commodity provisions in § 173.150(b)(2) and (c) must be met. For your



030031

173.150

information, Docket HM-215E has proposed to add Special Provision 149 for the paint related material entry. If adopted in the final rule, Special Provision 149 would authorize inner packagings of up to 5.0 L. We anticipate issuing a Final Rule under Docket HM-215E within the next several months.

I hope this answers your inquiry.

Sincerely,

A handwritten signature in cursive script, appearing to read "Delmer F. Billings".

Delmer F. Billings

Chief, Standards Development

Office of Hazardous Materials Standards

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January 28, 2003

MR. EDWARD T. MAZZULOO
OFFICE OF HAZARD MATERIAL SAFETY
U.S. DOT
RSPA
400 7TH ST S.W.
WASHINGTON D.C. 20590

DEAR MR. MAZZULOO:

WE SHIP AND RECEIVE A PRODUCT CALLED LACQUER THINNER PACKAGED IN ONE GALLON METAL CANS FOUR TO A CASE. THE PRODUCT USE TO COME IN TO US WITH A DIAMOND ON THE PACKAGE AND MARKED UN 1263 PGII CLASS 3. IT IS NOW COMING IN TO OUR FACILITY AS AN ORM-D CONSUMER COMMODITY. OUR SUPPLIER RECOCHEM INC OF CANADA HAS INFORMED US THAT THE REGULATION HAS CHANGED. (SEE ATTACHED LETTER)

MY QUESTION IS THAT WHEN I RESHIP THIS PRODUCT TO MY CUSTOMERS IN THE UNITED STATES, DO I HAVE TO REPACKAGE THE PRODUCT OR CAN I SHIP IT OUT AS AN ORM-D?

SINCERELY:

JEFFREY M. AARON

ENCL:

MSDS SHEETS LACQUER THINNER
RECOCHEM LETTER